GOVERNMENT OF MADRAS

Sectt. II-28—55,000—21-10-52

Health (1953) Department.

~~Endorsement~~
~~D.O.~~
~~Memorandum~~ (14 pages)
~~Lodged~~

No. 20373/53-4

Dated 4-6- 1953

closed
NRD

FURTHER PAPERS.

Department.	Number.	Series.	Date.

Cinematograph - licences - Granting of - procedure

Ref.C4. 2874/53 S.K.District Magistrate's Office,
Mangalore dated 24.2.53.

From

Sri C.A.Ramakrishnan,I.C.S.
District Magistrate, South Kanara.

To

The Secretary to Government,
Home Department, Fort St.George,
Madras 9.

65434
24/2/53

Sir,

CINEMATOGRAPH: Licences- Granting of -Procedure.

****

I invite attention to my letter Ref.C4.7441/52 dated 5.1.53 a copy of which is enclosed for ready reference. Since the submission of my report, the Inspector of Municipal Councils and Local Boards in his Proceedings L.Dis.1401/53 dated 23.2.53 has authorised the District Panchayat Officer South Kanara under Section 46 (2) of the Madras Village Panchayats Act to perform the functions of the Panchayat Board and grant permission for the installation of an oil engine by Jayalaxmi Touring Talkies. The licence for the installation of oil engine ~~by Jayalaxmi Touring Talkies~~ was subsequently granted on 27.2.53 by the District Panchayat Officer acting as mentioned above, and licence under the Cinematograph Act was issued.

2. This incident has raised an important question regarding the powers of the Panchayat Board in the matter of allowing the exhibition of touring Talkies which applied for an engine installation licence much later than the Jayalaxmi Talkies was granted that licence in October 1952. The President of Nileshwar Panchayat Board successfully evaded granting licence to the Jayalaxmi Talkies upto 27.2.53, with the obvious object of favouring Hindustan Touring Talkies. As the rules stand at present the touring talkies cannot exhibit shows without the licence for installation of oil engine inspite of taking the trouble of obtaining the Electrical certificate, licence under the places of Public Resorts Act, certificate regarding approved films, Fire Officers certificate etc and even though the District Magistrate is disposed to grant a licence under the Cinematograph Act. By the time the provisions of Sec. 46 of the Madras Village Panchayat Act are invoked by the Inspector of Municipal Councils and Local Boards, the touring cinemas will be put to unnecessary loss as in the present case. I therefore suggest that so far as touring cinemas are concerned the local Tahsildars may be authorised to grant engine installation licences in cases where the Panchayat Boards adopt evasive tactics. Otherwise, much injustice will be caused. Alternatively the Collectors may be given powers to cancel or suspend unreasonable resolutions of Panchayat Board in clear cases of injustice and favoritism like the present one. A Collector who can easily inspect the locality will know more about the facts of the case, than the Inspector of Municipal Councils and Local Boards with Headquarters at Madras and having jurisdiction over the whole state. The democratic implied in powers given to panchayat Boards becomes oppression and harassment when no quick remedy is available to the victims.

Yours faithfully,

For Dt.Magistrate.

Encl: 1.
Copy to the Inspector of Municipal Councils and Local Boards,
Madras.

26.3.

Home Dept.

L.A. No.

F.D.

1/4/53.

1.4.53

4/4/53.

65-434/53-1

Home U.O No. ~~538/53-4~~ 2-4-53

L.A. Deptt (A).

Health U.O.

5/4/53

7/4/53

8/4/53

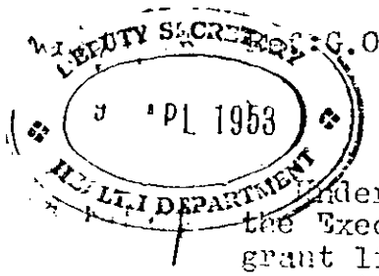
L.A.No. 16938-1A/8.4.53.

Copy of letter Ref.C4. 7441/52 dated 5-1-1953 from the Dt. Magistrate of South Kanara addressed to the Secretary to Government Home Department, Fort St.George, Madras.9

20373 S

CINEMATOGRAPH:Licences - Granting of -Necessity of licence under Sec. 92 of the Madras Village Panchayat Act.

Ref:G.O.No 2373,Health dated 15.7.1951.



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Under Sec. 94 of the Madras Village Panchayats Act 1950 the Executive officers of Panchayat Boards are not authorised to grant licences under the places of Public Resort Act 1888 in respect of places or building to be used exclusively for the purpose of holding cinematograph exhibitions . In the G.O. cited above the Taluk Magistrates or the Dy. Tahsildar Magistrates ~~or the Dy.Tahsildar Magistrates~~ having jurisdiction over the local area have been authorised to dispose of applications under the places of public Resort Act in such cases. Under the existing rules the production of a licence under the places of Public Resorts Act is insisted upon before a licence in form A under the Cinematograph Rules is granted under rule 13 of the Cinematograph Act Rules. Condition 1 of the licence in form A does not exempt the licensee from taking out any other licence required by or otherwise complying with any other law or rule or by law made thereunder. In view of the circumstances stated below, I solicit instructions whether a licence under Section 92 of the Mad Places of Public Resort is necessary for installing an oil engine in the premises of the cinema theatre in a place where the places of public resort act is not in force.

2/- The facts of the case are as follows:The Jayalaxmi Talkies (Touring cinema)was exhibiting cinema shows in Nileshwar II village upto 23.11.52. When the cinema was running at Nileshwar II village he applied for a licence for the installation of oil engine at R.S.No 414[illegible] of Nileshwar I village (under different Panchayat Board)on 12.8.52 with the object of running the shows at Nileshwar I village after the expiry of the licence in Nileshwar II village. The President of Nileshwar I village appears to have delayed issuing the licence under Sec.92 of the Village Panchayat Act on the plea that the ground was wet on account of the monsoon. Subsequently the proprietor of another cinema called "Hindustan Talkies applied for a licence for the installation of the oil engine for the same purpose in R.S.No 395/4 and 395/5 of Nileshwar I village and the President of Nileshwar I village granted him the necessary licence as the ground selected by Hindustan Talkies, was suitable. After issuing the licence to Hindustan Talkies the President rejected the application of the Jayalaxmi Talkies on the ground that he had already granted a licence to Hindustan Talkies and that if two cinemas are licensed in the village, the economic condition of the people will be ruined.

P.T.O

3. The proprietor of Hindustan Talkies applied to me for a licence under the cinematograph Act on 14.10.52, and the Managing Director of Jayalaxmi Talkies submitted a petition under section 127 and 128 of the village Panchayat Act on 3.11.52. On enquiry I found that the population of Nileshwar according to the 1951 census is 10,921 and that according to the instructions in G.O.Rc.4942, Home dated 27.12.51 in places with a population of over 10,000 but less than 20,000 two touring cinemas can be allowed at a time as there are no permanent cinemas in the place. As the application in respect of Hindustan Talkies was complete, I granted proprietor of that Talkies a temporary licence for a period of 3 months on 3.12.52. In my proceedings Ref.C4.7441/52 dated 3.12.52, I also informed the President Nileshwar I Panchayat Board that according to the Government order cited above two touring cinemas can be allowed at Nileshwar and requested the president to issue necessary licence under section 92 of the M.P.Act to Jayalaxmi Talkies also. The President instead of issuing the licence, called for an urgent meeting of the Board on 11.12.52. The meetings on 11.12.52 and 17.12.52 were adjourned for want of quoram and on 17.12.52 in Resolution No.56 dated 23.12.52 the Panchayat Board refused to grant the licence to Jayalaxmi Talkies. ~~(The Managing Director of Jayalaxmi Talkies alleges also, the President instead of issuing the licence, called for an urgent meeting of the Board on 11.12.52. The meetings on 11.12.52 and 17.12.52 and were adjourned for want of quoram and on 17.12.52 in Resolution No.56 dated 23.12.52 the Panchayat Board refused to grant the licence to Jayalaxmi Talkies.)~~ The Managing Director of Jayalaxmi Talkies alleges that the President of Nileshwar Panchayat Board wants to favour the Hindustan Talkies, and therefore the members of the Panchayat Board were orally instructed to refrain from attending the meeting on two occasions. I think this is not a fit case where action under Sec.44 of the Village Panchayat Act is called for as this is not a case of emergency where interference is necessary for the safety of the public. In spite of clear instructions by the Dy.Panchayat Officer, Kasargod the President has failed to issue necessary licence to the Jayalaxmi Talkies. The Dt.Panchayat Officer has reported to me that he is submitted a separate report to the Inspector of Municipal Councils and Local Board for taking necessary action gainst the Panchayat Board. But for by the time action is taken by the Inspector under Section 46(1) of the M.V.P.Act the cinema company will be put to unnecessary loss. I do not think it is necessary to insist on the production of a licence under Section 92 of the M.V.P.Act before a licence under the cinematograph Act is granted, but at this stage I cannot grant a licence under the cinema ograph Act as it will involve incitement to commit an offence under the village Panchayat Act. I solicit instructions in the matter.

/True copy/

Q. 15/4

7

Health (T)

Abstract. From the D.M. South Kanara, C.4. 2874/53 dt 24.3.53.

3/25/4

Sub: Cinematograph — Grant of licences for installation of engines in Panchayats - Transfer of Power to the Revenue Deptt - Request re.

Memo n Lo 373/53-2T Health dt 24.4.53

The attention of the Insp.r of mlds & Asst Ds is invited to the letter of the D.M, South Kanara, cited, Copy of which has been sent to him and he is requested to offer his remarks on the suggestion if contained therein.

Dr/24/4

1:F

To.

The Insp/r of mlds

27/4/53

14/4/53

14.4.53

15/4/53

(PTO)

8.

P.IV

Note: Home may see the Case before issue of the draft. They may be requested to state whether the orgl. letter of the D.H. South Kanara at pp 3-5 Cr. was received by them and if so to let this Deptt also see the Case.

79726 V.P. 1-2
16-4-53 in Ft.

16 APR 1953
HOME DEPARTMENT

Health W. 0
20373-IT
15-4-53

14/4/53

14-4-53

17/4/53

Home Dept.

The original letter on pp. 3-5 Cr. was received in this Dept. and is dealt with in the Ft.

May be perused and returned to Health

Health may be requested to return the Ft as early as possible.

20/4/53. 21/4/53

21.4.53

Health

DEPUTY SECRETARY
22371
21 APR 1953
HEALTH DEPARTMENT

U.079726/53-1
21.4.53

9 Health (T)

C-no 5381/53 F. of Home

Please see the note of the Home Dept on p 2 ante. In the linked file the Home are considering the question whether it is necessary to insist on the production of a licence under section 9.2 of the M.V.P Act before a licence is issued for the installation of oil engine in areas where the P.P.R Act is not in force. They have asked for the practice that is being followed ~~by~~ in select districts. In the present case however the question for consideration is whether so far as touring cinemas are concerned the local Tashildars may be authorised to grant engine installation licences.

The draft on p/anne may issue. ~~The linked file may be~~

WR
24/4/53

From
Sri K.G. Menon, I.C.S.,
Inspector of Ml.Cls.&
Local Boards, Madras-1.

To
The Secretary to Government,
Health Department,
Madras-9.

L.Dis.28472/53 dated 20—5—1953.

Sir,

Sub: Cinematograph—Grant of licenses for installation of engines in Panchayats—Transfer of power to the Revenue Department—remarks of.
Ref: Government Memo No.20373/53-2, T.Health, dated 24-4-53.

2865 late

The suggestions of the District Magistrate, South Kanara in his letter C4.No.2874/53 dated 24-3-53 are that in respect of touring cinemas the local Tahsildars may be empowered to issue permission for installation of machinery under Section 92 of the Madras Village Panchyats Act and that the Collector may be empowered to cancel any illegal or unjust resolutions passed by the Panchayat in such cases under section 43 of the Madras Village Panchayats Act. These suggestions will involve not only amendments to the Act but also do not seem to be quite necessary.

Under Section 43(1) the Inspector is empowered to suspend or cancel any resolution passed, order issued, licence or permission granted by the Panchayat or its executive authority, as the case may be, if such resolution, order, license or permission has not been legally passed or is in excess of the powers or an abuse of powers. This power has been delegated to the Regional Inspectors. When an abuse of power by a Panchayat or its Executive Authority is brought to notice, the Inspector or the Regional Inspector cocenred takes suitable action to cancel the resolution or the order passed. Where the Panchayat has refused to grant permission for the installation of machinery By a touring cinema eventhough the Collector has recommended the grant of permission, the mere cancellatio of such resolution will not satisfy the provisions of section 92 of the Madras Village Panchayats Act and hence the touring cinema cannot immediately after such cancellation install the macinery. The Panchayat has however to pass a resolution for the grant of permission under Section 92 and if it fails to to do so within a specified time, then the provisions of section 46 of the Madras Village Panchayats Act will have to be resorted to. All this procedure involves time and the object in view viz. grant of permission for the installation of the machinery cannot be achieved as promptly as the Collector of South Kanara seems to think even if he is invested with the power of cancelling the resolution of Panchayats.

Further ~~From the~~ cases of the kind under reference are few and far between in which besides cancelling such resolutions and empowering the local officers to carry out the proper functions of the Panchayat under section 46 of the Madras Village Panchayats Act by the Inspector, if the Panchayat is still persistent action can also be taken under Section 47 and 48 of the said Act for such acts of malfeasance which will have a salutary effect on the Panchayats.

The fact that the Collector is of the view that he can act more easily ~~and~~ and quickly in such matters which may not be possible at all times, particularly in cases of this kind, cannot by itslef be a sufficient ground to give effect to the changes as proposed by the Collector. Hence the suggestions of the Collector, South Kanara do not seem to be feasible.

for Inspector. 22/5/53

22/5/53

mkl/215.

'13

Health (T)

31/5.6

p1CF : From the D.M. South Kanara, no C4.2874/53 d 24.3.53.
p11CF From the Insp.r of ml.cls dt. [illegible]
L.Dis 28472/53 d 20.5.53.

Sub: Cinematograph - Grant of licences for installation of engines in panchayats - Transfer of power to the Revenue Deptt -

Memo no 20373/53-4 T Health d 4.6.53.
An extract of the remarks of the Insp.r of ml.cls dt.[illegible] contained in his letter cited (1) is forwarded to the D.M, South Kanara. In the circumstances stated, the Govt regret that the suggestion of the D.M cannot be accepted.

p11CF

Sh (FD)
4/6

VR
27-5-53

To: The D.M.
South Kanara 25.5.53
NRP
26-5-53
(with an extract of p11CF as edited)
The Insp.r of ml.cls dt.[illegible]
S/c
Copy to Andhra state.
(with pp 1-5, 7+11CF)

Note : Please see the letter of the D.M, South Kanara on p1CF and the Insp.r's remarks thereon on p11CF. The Insp.r's letter sets out the correct position. In the circs stated by him, the Coll.r's suggestion cannot be accepted. The draft above is for approval. L.A and Legal may see the case before issue of the draft

VR
27-5-53 L.A/Legal

ASSISTANT SECRETARY 8942 30 MAY 1953 LEGAL DEPARTMENT

Health (T)
20373/53-1 T.
25/5/53
NRP
26-5-53

LA

Seen
29/5/53
Legal

DISPATCHED 26833 29 MAY 1953 GOVERNMENT OF MADRAS

Allo. 26833-53-1A.
29.5.53